

**A3 Environmental**  
**Standard Terms and Conditions**  
**June 1, 2015**

**1. Estimated Fees**

Unless the Scope of Work provides otherwise, the Estimated Fees contained therein constitute A3 Environmental's estimate of the probable cost required to complete the proposed Project. The Estimated Fees identified in A3 Environmental's proposal shall not be deemed to either a guaranteed maximum or "guaranteed not-to-exceed" amount with respect to the cost of performing the Project. However, in performing any Project, A3 Environmental will not perform work for which it will charge more than the Estimated Fees without the client's approval.

**2. Professional Services Charges**

Where the payment for A3 Environmental's services is to be calculated on a time and material or cost reimbursement basis, the following commercial terms shall apply:

- a. Where any agreement is based on the hourly or unit rate of specific individuals, equipment or inventory item, normal and customary increases will become effective immediately upon notice to the Client and will be reflected in A3 Environmental's next invoice submitted to the Client.
- b. Expenses properly chargeable to the Project shall include: reasonable travel and living expenses of A3 Environmental personnel on business connected with the Project; shipping costs; reproduction and photographic costs; agency fees; map costs; equipment rental costs, telephone charges; expendable materials and supplies purchased specifically for the Project; and professional, analytical and technical subcontractors and advisors retained in connection with the Project. These are referred to collectively as third-party expenses. A 15 percent handling and administrative charge will be added to all third-party Project expenses including subcontractor expenses. If A3 Environmental services are subject to local or state taxes or fees, these additional costs will be charged to the Project and reimbursed by the Client.
- c. In addition to specific Project incurred expenses, a charge of 5 percent of A3 Environmental personnel charges will be included to cover miscellaneous expense such as telephone, copying, postage, consumables and other non-itemized Project related items.
- d. If A3 Environmental personnel are called or subpoenaed for depositions, examination, court appearances, or otherwise to appear to testify in proceedings in connection with the Project, A3 Environmental shall be paid on a time and material basis in accordance with A3 Environmental's standard billing rates for such matters.

**3. Invoices**

Invoices will be submitted to the Client on a monthly bases and shall be payable upon receipt. Unpaid balances shall be considered past due 30 days after the invoice date. Past due balances shall be subject to an interest rate of 1.5 percent per month or the maximum permissible under state law, whichever is less. Payments received will be applied first to any accrued interest with the balance of the payment then applied to any unpaid fees. In addition, A3 Environmental may, after giving seven (7) days written notice, suspend services under any agreement without liability until all past due accounts (including fees and accrued interest) have been paid. Timely payment is an essential condition of Client's performance of any agreement between A3 Environmental and Client. In the event A3 Environmental must take legal action to be paid for its services and prevails, the Client shall reimburse all costs associated with such action including reasonable attorney fees.

**4. Information and Access**

- a. Upon request of A3 Environmental, Client shall furnish or cause to be furnished to A3 Environmental all documents and information in Client's possession or control that relate to the identify, location, quantity, nature or characteristics of any hazardous substance or waste at, on or under the Site. In addition, upon request of A3 Environmental, to the extent of Client's possession or control, Client shall furnish or cause to be furnished to A3 Environmental all existing reports, data, studies, plans, specifications, documents and other information of

surface or subsurface conditions including but not limited to the location of all subsurface structures such as pipes, tanks, cables, and utilities, required by A3 Environmental for proper performance of its services hereunder. A3 Environmental shall be responsible for requesting utility marking from all applicable utility marking services prior to the performance of its services hereunder.

- b. A3 Environmental and its subcontractors shall be entitled to rely upon Client provided documents and information in performing the services required under this contract; however, A3 Environmental assumes no responsibility or liability for their accuracy or completeness. Client provided documents shall remain the property of the Client.
- c. Client shall provide for right of entry and access to the Site for A3 Environmental, its agents, employees, and subcontractors, and all necessary equipment and personnel, in order to perform the Scope of Work. A3 Environmental shall take all reasonable precautions to minimize damage to the Site from use of equipment, but the parties understand and agree that in the normal course of work some damage may occur. Any claims for damages are subject to section 9 below.

**5. Subcontractors**

A3 Environmental may employ qualified subcontractors to perform portions of the Scope of Work.

**6. Permits and Licenses**

A3 Environmental shall secure all permits, approvals and licenses, and shall require its subcontractors, if any, to secure all permits and licenses necessary for performance under this contract. A3 Environmental shall comply with all municipal, state, and federal ordinances, laws, statutes, rules and regulations that are applicable to the Scope of Work.

**7. Warranty**

- a. A3 Environmental is an independent contractor and A3 Environmental's services will be performed, findings obtained and recommendations prepared in accordance with generally and currently accepted professional practices and standards for nationally recognized firms engaged in similar work. This warranty is in lieu of all other warranties either expressed or implied.
- b. A3 Environmental shall correct any defects in the materials or in services that are not performed in accordance with the foregoing warranty at no additional charge to Client. Any claim pursuant to this contract must be in writing and received by A3 Environmental within one (1) year of the completion of the services or such claims shall be deemed waived.

**8. Insurance**

A3 Environmental has furnished Client certifications of insurance reflecting the limits of insurance coverage A3 Environmental has obtained, and which shall remain in full force and effect during the term of this contract for the following types of insurance: worker's compensation insurance (as required by the laws of the state where the work is performed); professional liability insurance; comprehensive general liability insurance and automobile liability insurance.

**9. Indemnity**

- a. A3 Environmental shall indemnify, defend and hold Client harmless from and against all claims, suits and proceedings, and any losses or damages actually incurred by Client, which are caused by A3 Environmental's negligent acts, errors and omissions, or those of its agents or employees in the performance of this contract provided; however, that A3 Environmental's liability under this subparagraph:

- Shall not exceed the fees charged by A3 Environmental for the projects;
- Shall be paid from and limited to the proceeds of the applicable policy of insurance provided for and in effect pursuant to this contract;

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- Shall not include any loss or damages for lost profits or consequential damages of any kind or nature; and
- Shall apply only if Client notifies A3 Environmental in writing of its claim for indemnity within one (1) year of completion of the Scope of Work.

b. Client shall indemnify, defend and hold A3 Environmental harmless from and against all claims, suits and proceeds, and any damages or losses incurred by A3 Environmental including but not limited to any claims, damages or costs for damages or losses to any subsurface structures or utilities, which are caused by the acts, errors or omissions of Client, its agents or employees, and the work of any third parties obligated directly to Client to perform work at or about the Site provided; however, that Client's liability under this subparagraph:

- Shall not include any loss or damages for lost profits or consequential damages of any kind or nature; and
- Shall apply only if A3 Environmental notifies Client in writing of its claim for indemnity within one (1) year of completion of the Scope of Work.

c. Absent A3 Environmental's negligence, Client acknowledges that A3 Environmental has neither created nor contributed to the creation or existence of any type of hazardous or toxic waste, material or substances, or any other type of environmental hazard or pollution at Client's Site or in connection with the Scope of Work; and it is understood and agreed by Client that A3 Environmental shall have no liability therewith. Client shall indemnify, defend and hold A3 Environmental harmless for all claims, suits and proceedings, and any losses or damages actually incurred by A3 Environmental in connection with any such matters other than for A3 Environmental's own negligence or willful misconduct.

**10. Limits of Liability/Binding Arbitration**

In the event any dispute arises out of or relates to the Project issued under this contract, it is mandatory that such dispute be submitted to arbitration for resolution. Notice of a demand for arbitration submitted in accordance with the provisions of this paragraph shall be given in writing to A3 Environmental, LLC within one hundred twenty (120) days of the Project completion. Failure to receive the request for arbitration within one hundred twenty (120) days from the date of Project completion shall forever bar and preclude the bringing of or making any claim. A suit filed in any court does not satisfy the requirement of notification within the specified one hundred twenty (120) day limitation period. The arbitration shall be conducted pursuant to the Construction Industry Arbitration Rule as set out by the American Arbitration Association and take place in Chicago, Illinois. A single arbitrator shall preside. In the event that a dispute is submitted to arbitration pursuant to this Paragraph, the decision of the arbitrator shall be final and binding on the parties and judgment on the award of the arbitrator may be entered in any court of competent jurisdiction. As a condition of the fee incorporated herein, A3E's liability shall in no case exceed three times the amount of the fee charged.

**11. Force Majeure**

Costs and schedule commitments shall be extended for delays caused by Client's failure to provide information or access to the Site as required, or by Client's delay in responding to a Change Order request, or for delays caused by changes in the waste stream or unforeseen conditions at the Site, such as fire, floods, strikes, riots, unavailability of labor or materials or services, bad weather, or action, inaction or regulations of any governmental agency or any other cause beyond A3 Environmental's control. If work stoppage or interruption caused by any of the above result in additional costs and/or time to complete the Scope of Work beyond that set forth in this Contract, A3 Environmental shall be entitled to a reasonable adjustment in its fees and work schedule.

**12. Title to Materials**

Materials removed from the Site, including but not limited to soils, water, samples and cuttings shall remain the property of the Client. When off-site treatment, storage or disposal is required, A3 Environmental shall, using a manifest signed by Client as generator, assist Client in having such materials transported or arrange for transportation to a location selected by Client.

**13. Information and Access**

A3 Environmental agrees that its observations of Client's operation, plant and equipment, and its receipt of any documentation pertaining to Client's business operations, shall be held in strict confidence and not be disclosed to any other party except to the extent such information may:

- a. Be or later become part of the public domain; or
- b. Be already lawfully in the possession of A3 Environmental at the time it was acquired hereunder; or
- c. Be required by law or court order to be publicly disclosed.

**14. Termination by Client**

The Client may, after giving seven (7) days written notice to A3 Environmental to stop the work and/or terminate this contract.

**15. Termination by A3 Environmental**

A3 Environmental, for any of the following reasons, after giving seven (7) days notice to the Client, shall have the right to stop the Project and/or terminate this Contract:

- a. If Client shall fail to pay A3 Environmental in accordance with the payment terms set forth herein; or
- b. If Client is adjusted bankrupt, or makes general assignment for the benefit of creditors, or if a receiver is appointed on account of its insolvency.

**16. Effect of Termination by Client or A3 Environmental**

In the event Client or A3 Environmental terminates this Contract or stops the Project under the conditions set forth in paragraphs 13 or 14 above, Client shall remain obligated to pay A3 Environmental for all portions of the Scope of Work performed, for all of its obligations under any subcontracts (including any which it was unable through reasonable efforts to cancel), and for any additional reasonable costs of demobilization incurred by A3 Environmental.

**17. Reference**

A3 Environmental upon obtaining Client permission to do so shall have the authority to use Client's name as a client and a general description of the Project, work or service performed as reference for other prospective clients.

**18. Severability**

If any provision of this Contract shall to any extent be held invalid, the remainder of this Contract shall not be affected thereby and each remaining provision of this Contract shall be valid and enforceable to the fullest extent permitted by law.

**19. Survival**

The parties' respective obligations, as set forth in these Standard Terms and Conditions, including Client's obligation to pay A3 Environmental for work A3 Environmental has performed, shall survive the termination or expiration of this Contract. TO

**20. Applicable Law**

This Contract and performances thereunder, shall be governed by and construed in accordance with the laws of the State of Illinois.